The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.

Paper No. 44

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

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U.S PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FUSEN CHEN, LIANG-YUH CHEN and MOSHE EIZENBERG

Application No. 08/856,116

ON BRIEF

Before KIMLIN, WARREN AND KRATZ, <u>Administrative Patent Judges</u>.

KIMLIN, <u>Administrative Patent Judge</u>.

REQUEST FOR REHEARING

Appellants request rehearing of our decision of August 29, 2003, wherein we affirmed the examiner's rejection of appealed claims 15-18, 21 and 23 under 35 U.S.C. § 103 as being unpatentable over Taguchi in view of Zhao and Sliwa.

We have thoroughly reviewed appellants' arguments as set forth in the Request for Rehearing. However, for the reasons set forth in our decision and in the Examiner's Answer, we remain of

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the opinion that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Appellants have not set forth a convincing argument that our decision contained an error either in fact or in law.

Furthermore, the argument advanced in the first full paragraph at page 2 of the Request is untimely and, therefore, not proper for our consideration. It is fundamental that all arguments not presented by an appellant in the principal and reply briefs on appeal are considered abandoned, and no new argument may be presented in a Request for Rehearing.

Appellants' principal and reply briefs make no argument that:

Selectively depositing a metal layer on an underlayer exposed in a feature in *Taguchi* as described in *Zhao* would require eliminating the conformal barrier layer 23 of *Taguchi* so that the feature would have different materials on the sidewall and exposed underlayer of the feature that would provide a basis for selective deposition on the exposed underlayer of the feature.

(Page 2 of Request, first full paragraph). Our review of appellants' principal and reply briefs finds no mention of this line of argument.

Accordingly, appellants' request is granted to the extent we have reconsidered our decision, but is denied with respect to making any change therein.

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No time period for taking any subsequent action in connection with this appeal may be extended under $37\ \text{CFR}$ § 1.136(a).

DENIED

EDWARD C. KIMLIN

Administrative Patent Judge

CHARLES F. WARREN

Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

PETER F. KRATZ

Administrative Patent Judge

ECK:clm

Appeal No. 2003-1264 Application No. 08/856,116

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